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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,821	03/15/2004	Kerry Dennis Brown	MLF 670-03	1621
26329	7590	04/02/2008	EXAMINER	
RICHARD B. MAIN, ESQ.			NILFOROUSH, MOHAMMAD A	
PATENTS PENDING			ART UNIT	
9832 LOIS STILTNER CT.			PAPER NUMBER	
ELK GROVE, CA 95624			4137	
MAIL DATE		DELIVERY MODE		
04/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/800,821

**Applicant(s)**

BROWN, KERRY DENNIS

**Examiner**

MOHAMMAD NILFOROUSH

**Art Unit**

4137

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/7/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgements***

1. Claims 1-13 and 16-20 are cancelled
2. Claims 14-15 are pending.
3. Claims 14-15 have been examined.
4. This Office action is given Paper No. 20080327 for reference purposes only.

### ***Election/Restrictions***

5. Applicant's election without traverse of Invention I, Claims 14-15 in the reply filed on 3/7/2008 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Cooper (U.S. Patent No. 5,834,747).
8. As for claim 14, Cooper discloses a method for operating a payment card, comprising:
  - providing a programmable magnetic array on a payment card (Figure 2, programmable magnetic strip 4 on plastic substrate 3, col. 2 ll. 45-52; Figure 3,

programmable magnetic strip **10**, col. **4 ll. 26-29**; Figure **4**, magnetic strip **10**,  
electromagnet coils **21**, col. **7 ll. 5-38**); and

- presenting valid data to said magnetic array for a limited time (col. **4 ll. 29-47**, col. **6 ll. 48-61**).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper in view of Berger et al. (U.S. Patent No. 6,105,874, hereinafter "Berger").

11. As for claim 15, Cooper discloses a method for operating a payment card, comprising:

- providing a programmable magnetic array on a single payment card (Figure **2**, programmable magnetic strip **4** on plastic substrate **3**, col. **2 ll. 45-52**; Figure **3**, programmable magnetic strip **10**, col. **4 ll. 26-29**; Figure **4**, magnetic strip **10**, electromagnet coils **21**, col. **7 ll. 5-38**); and
- presenting valid data to said magnetic array for a limited time (col. **4 ll. 29-47**, col. **6 ll. 48-61**).

Cooper does not specifically disclose providing a smartcard contact interface and a wireless smartcard contactless interface on the same card.

Berger discloses providing a smartcard contact interface (Figure 1, data carrier 1, contact-bound interface means 3, col. 4 ll. 28-34) and a wireless smartcard contactless interface on the same card (Figure 1, data carrier 1, contactless interface means 4, col. 4 ll. 28-34).

Therefore, it would have been obvious to a person having ordinary skill in the art to modify the payment card of Cooper to further include both a smartcard contact and contactless interface as disclosed in Berger. A person having ordinary skill in the art would have been motivated to modify the references in order to increase the versatility of the card and make it easier for vendors to accept it.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent No. 4,791,283 by Burkhardt for disclosing a transaction card magnetic stripe emulator.
- U.S. Patent No. 5,412,192 by Hoss for disclosing a radio frequency activated charge card.
- U.S. Patent No. 6,572,015 by Norton for disclosing a smart card authorization system, apparatus, and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD NILFOROUSH whose telephone number

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is (571)270-5298. The examiner can normally be reached on Mon-Thur 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. N./

Examiner, Art Unit 4137

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 4137